(1)
Supreme Court, U.S.
FILED
041029 NOV 19 2004
OFFICE OF THE CLERK

No. _____

IN THE
Supreme Court of the United States

MARGARET CHAMBERLAIN,

Petitioner,

v.

COURT OF APPEALS, Ninth District,
Jefferson County, Texas (Beaumont);
ALFRED S. GERSON, Judge at County Court at Law
No. 1, Jefferson County, Texas (Beaumont), Texas;
GENERAL MOTORS ACCEPTANCE CORPORATION,

Respondent(s).

On Appeal to the United States Court of Appeals
For The Fifth Circuit

PETITION FOR A WRIT OF CERTIORARI

MARGARET CHAMBERLAIN
Petitioner Pro Se
5735 Fleetwood Lane
Beaumont, Tx 77706-2616
Telephone: (409) 347-0637

QUESTIONS PRESENTED

1. Whether or not it is imperative that this court consider Supreme Court Rule 14.1. (i) (iv) in the construction of the facts in this case because the date of the opinion sought to be reviewed is different than the date of a later letter from the United States Court of Appeals, Fifth Circuit and Petitioner did not receive a copy of any document at all as a "judgment."

2. Was the United States Court of Appeals, Fifth Circuit in error when their opinion that is sought to be reviewed did not rule at all regarding Petitioner's Motion for Stay of Mandate Pending Rehearing(s); Petition for Panel Rehearing; and Petition for Rehearing En Banc (No. 03-41470) filed July 6, 2004?

3. Were the lower courts in error in dismissing this case without any evidentiary hearing or notice at all, in a full denial of Petitioner's civil rights, due process and a jury trial, in conflict with the decisions of the United States Supreme Court, Federal Rules of Appellate Procedure and the United States Court of Appeals, Fifth Circuit Rules?

4. Were the lower courts in error when they honored an "Equitable Bill of Review – Final Judgment," when in truth and in fact there was NO TRIAL and NO JUDGMENT AT ALL as documented and proved by the Reporter's Record of the case, June 4, 2001?

5. Was Petitioner denied her civil rights by the intentional acts of the Respondents and each of them, including due process and the right to a jury trial guaranteed by the United States Constitution, entitling her to recover compensatory/exemplary damages (losses)?

LIST OF PARTIES

The parties below were MARGARET CHAMBERLAIN (Petitioner); and COURT OF APPEALS, Ninth District, Jefferson County, Texas (Beaumont); ALFRED S. GERSON, Judge at County Court at Law No. 1, Jefferson County, Texas (Beaumont), Texas; GENERAL MOTORS ACCEPTANCE CORPORATION (Respondents).

CORPORATE DISCLOSURE

Not applicable.

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
LIST OF PARTIES	ii
CORPORATE DISCLOSURE	ii
TABLE OF CONTENTS	iii
TABLE OF AUTHORITIES	v
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS BELOW	1
STATEMENT OF JURISDICTION	2
CONSTITUTIONAL PROVISIONS, STATUTES AND RULES INVOLVED	3
STATEMENT OF THE CASE	4
REASONS FOR GRANTING A WRIT	5

I. It is imperative that this Court must review and consider Rule 14.1. (i) (iv) in the construction of the facts of this case because the date of the opinion sought to be reviewed is different than the date of a later letter from the United States Court of Appeals, Fifth Circuit, and Petitioner did not receive a copy of any document at all as a "judgment."

A. The United States Court of Appeals, Fifth Circuit was in error when they made no ruling at all regarding Petitioner's Motion for Stay of Mandate Pending Rehearing(s); Petition for Panel Rehearing; and Petition for Rehearing En Banc (No. 03-41470) filed July 6, 2004.

B. The lower courts were in error in dismissing this case without any evidentiary hearing or notice at all, in a full denial of Petitioner's civil rights, due process and a jury trial, in conflict with the decisions of the United States Supreme Court, Federal Rules of Appellate Procedure and the United States Court of Appeals, Fifth Circuit Rules.

TABLE OF CONTENTS – Continued

Page

C. The lower courts were in error when they honored an "Equitable Bill of Review – Final Judgment," when in truth and in fact there was NO TRIAL and NO JUDGMENT AT ALL as documented and proved by the Reporter's Record of the case, June 4, 2001.

D. Petitioner was denied her civil rights by the intentional acts of the Respondents and each of them, including due process and the right to a jury trial guaranteed by the United States Constitution, entitling her to recover compensatory/exemplary damages (losses).

II. THE DESIGNED AND DELIBERATE ACTS OF THE RESPONDENTS IN DENYING THE PETITIONER'S CIVIL RIGHTS ESTABLISHED UNDER THE UNITED STATES CONSTITUTION BY AMENDMENTS FIVE, SEVEN AND FOURTEEN WARRANT DE NOVO REVIEW BY THIS COURT AND AN AWARD OF COMPENSATORY/EXEMPLARY DAMAGES FOR HER PECUNIARY LOSSES, INCLUDING ATTORNEY'S FEES AND COURT COSTS, FOR THEIR CONDUCT.

III. PETITIONER, MARGARET CHAMBERLAIN, DID NOT WAIVE HER CIVIL RIGHTS AT ANY TIME OR AT ALL IN THIS CASE AND SHE HAS ESTABLISHED A PRIMA FACIE CASE BY DOCUMENTED PROOF OF HER CLAIMS, WHICH ENTITLE HER TO FULL AND COMPLETE RESTORATION OF THESE RIGHTS BY THIS COURT BY GRANTING HER PETITION FOR A WRIT OF CERTIORARI.

CONCLUSION 5

VERIFICATION 6

TABLE OF AUTHORITIES

Cases	Page
Erie Railroad Company v. Tompkins (1938) U.S. Supreme Court 58 S. Ct. 817; 304 U.S. 64; 82 L. Ed. 1188.	3
Ellis v. Weasler Engineering, Inc. (C.A. 5th, 2001) 258 F. 3rd 326.	3
Fuentes v. Shevin (1972) U.S. Supreme Court 92 S. Ct. 1983; 407 U.S. 67; 32 L. Ed. 2d 556.	3
Hill v. Porter Memorial Hosp., (1996) C.A. 7 (Ind.) 90 F. 3rd 220.	3
In Re North American Refractories Co. 54 S.W. 3rd 917 (Tex. App. – Beaumont – 2001).	3
Lynch v. Household Finance Corp., (1972) U.S. Supreme Court 92 S. Ct. 1113; 405 U.S. 538; 31 L. Ed. 2d 424. 405 U.S. 541, 1 - 3, 542; Remand: (1973) 360 F. Supp. 720: [Judgment for Plaintiff, plus costs].	4
Monterey v. Del Monte Dunes (1999) U.S. Supreme Court 119 S. Ct. 1624; 526 U.S. 687; 143 L. Ed. 2d 882.	4
Simler v. Conner (1963) U.S. Supreme Court 83 S. Ct. 609; 372 U.S. 221; 9 L. Ed. 2d 691.	4

Constitution

U.S. Const. Amend. V .....

U.S. Const. Amend. VII .....

U.S. Const. Amend. XIV .....

TABLE OF AUTHORITIES – Continued

	Page
Statutes	
1871 Civil Rights Statute	App. 4 - 3, 4
United States Code, Title 42, Civil Rights Act, §§1983, 1988	App. 6 (b) - xviii
United States Code, Title 28, §§1331, 1343, et seq.	—
United States Code, Title 28, §1651 (a)	App. 5 (a) - xvi
United States Code, Title 28, Fed. R. Evid. Rule 901 (a) (b) (7).....	—
Federal Rules of Appellate Procedure, Rule 30 (a) (1) (A) through (D)	—
Federal Rules of Appellate Procedure, Rule 60 (b) (4), Rule 60 (b) (6)	App. 9 - xxiii
Federal Rules of Civil Procedure, §1861	App. 6 (a) - xvii
Supreme Court Rules	
Rule 10 (c)	—
Rule 20.1	—
Rule 29.5 (c)	—
PROOF OF SERVICE - Separate Document. (App. 8). (Supreme Court Rules, Rule 29.5 (c)).	
Rule 33	—

PETITION FOR WRIT OF CERTIORARI

TO: THE UNITED STATES SUPREME COURT:

PREFACE

MARGARET CHAMBERLAIN, Petitioner Pro Se, respectfully requests that a writ of certiorari issue to review the opinion of Barksdale, DeMoss and Clement, Circuit Judges, of the United States Court of Appeals for the Fifth Circuit, Conference Calendar, No. 03-41470, June 22, 2004, Appeal from the United States District Court for the Eastern District of Texas, USDC No. 1:03-CV-340 (App. 1). Petitioner did not receive a copy of any document at all as a "judgment." On September 2, 2004, in a letter to the United States District Court, Eastern District of Texas, Beaumont, Mr. David Maland, Clerk, the court said "a certified copy of the 'judgment' is issued as the mandate," for the "District Court only" (USDC No. 1:03-CV-340) and "for the District Court only, a copy of the Court's opinion" (App. 2). The court was silent and made no ruling regarding Petitioner's Motion for Stay of Mandate Pending Rehearing(s); Petition for Panel Rehearing; and Petition for Rehearing En Banc, filed July 6, 2004. The record, original papers and exhibits were returned to the Clerk, one (1) volume (App. 3).

OPINIONS BELOW

I. The June 22, 2004 opinion of the Court of Appeals for the Fifth Circuit is an unpublished decision and it is stated therein ... "and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4." The opinion also affirmed the district court's dismissal for lack of subject matter jurisdiction (App. 1).

STATEMENT OF JURISDICTION

II. The Court of Appeals for the Fifth Circuit and the District Court below had mandatory jurisdiction of the subject case under the Civil Rights Act, Title 42 of the United States Code, including §1983, §1988 (App. 6 (b)). United States Code, Title 28, §1331, §1343, authorizes a Federal Court to hear claims alleging violations of guaranteed civil rights. Petitioner is filing under the authority stated in Supreme Court Rules, Rule 10 (c) stating the reasons this Court considers:

> "Rule 10. Considerations Governing Review on Certiorari...(c) a state court or a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court..." (App. 3).

Petitioner has preserved her civil rights by timely objections to the Report and Recommendations of Magistrate Judge Wendell C. Radford, adopted verbatim by Judge Ron Clark in the court below in his Memorandum Order dismissing this case, with prejudice. The deliberate acts of Respondent(s) intended direct violations of Petitioner's civil rights guaranteed as inviolate under the United States Constitution (Civil Rights Act of 1871; U.S.C.A. Amends. 5, 7, 14 (App. 4; App. 6 (a); App. 6 (b)).

III. Petitioner is also filing under the authority stated in Supreme Court Rules, Rule 20, issuance by the Court of an extraordinary writ authorized by United States Code, §1651 (a), as stated in ¶20.1 because the "writ will aid the Court's appellant jurisdiction; exceptional circumstances warrant the exercise of the Court's discretionary powers; and, adequate relief cannot be obtained in any other form or from any other court" (App. 5 (a); App. 5 (b)).

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES INVOLVED

IV. Petitioner, MARGARET CHAMBERLAIN, appearing pro se, had brought this appeal based on United States Constitution, Fifth, Seventh and Fourteenth Amendments, based on her independent §1983, §1988 suit seeking legal relief in an action at law, sounding in tort, to claim damages and court costs (compensatory/exemplary) for denial of due process, civil rights and the right to a jury trial. The damages sought in her verified complaint for constitutional violations are a legal remedy (App. 6 (a); App. 6 (b)).

U.S.C.A., Amends. 5, 7, 14; 1871 Civil Rights Statute; United States Code, Title 42, Civil Rights Act, §§1983, 1988; United States Code, Title 28, §§1331, 1343, et seq.; United States Code, Title 28, §1651 (a); United States Code, Title 28, Fed. R. Evid. Rule 901 (a) (b) (7); Fed. R. App. Proc. Rule 30 (a) (1) (A) through (D); Fed. R. App. Proc. Rule 60 (b) (4), Rule 60 (b) (6); Fed. R. Civil Proc. §1861. (App. 5 (a); App. 5 (b); App. 6 (a); App. 6 (b); App. 7 (a); App. 7 (b); App. 7 (c); App. 7 (d); App. 9; App. 10; App. 11).

Erie Railroad Company v. Tompkins (1938)
U.S. Supreme Court
58 S. Ct. 817; 304 U.S. 64; 82 L. Ed. 1188.

Ellis v. Weasler Engineering, Inc. (C.A. 5th, 2001)
258 F. 3rd 326.

Fuentes v. Shevin (1972) U.S. Supreme Court
92 S. Ct. 1983; 407 U.S. 67; 32 L. Ed. 2d 556.

Hill v. Porter Memorial Hosp., (1996) C.A. 7 (Ind.)
90 F. 3rd 220.

In Re North American Refractories Co.
54 S.W. 3rd 917 (Tex. App. – Beaumont – 2001).

Lynch v. Household Finance Corp., (1972)
U.S. Supreme Court
92 S. Ct. 1113; 405 U.S. 538; 31 L. Ed. 2d 424. 405 U.S. 541, 1 - 3, 542; Remand: (1973) 360 F. Supp. 720: [Judgment for Plaintiff, plus costs].

Monterey v. Del Monte Dunes (1999) U.S. Supreme Court
119 S. Ct. 1624; 526 U.S. 687; 143 L. Ed. 2d 882.

Simler v. Conner (1963) U.S. Supreme Court
83 S. Ct. 609; 372 U.S. 221; 9 L. Ed. 2d 691.

V. STATEMENT OF THE CASE

The original action in this case for a claimed default by Petitioner by Respondent, GENERAL MOTORS ACCEPTANCE CORPORATION ("G.M.A.C.") for money damages of $4,160. plus attorney's fees and court costs was unfounded and proved untrue and Petitioner was awarded her costs (motion to sequester, No. 78,658) (App. 7 (a)). The Petitioner MARGARET CHAMBERLAIN ("Chamberlain") brought an Equitable Bill of Review in Respondent Court of Appeals, Ninth District, Beaumont, Texas, No. 91,948 which they dismissed (Appeals No. 09-01-333) (App. 7 (b)). The trial court dismissed the Equitable Bill of Review on June 4, 2001, Judge Alfred S. Gerson (App. 10). There was never a 'final' judgment in fact because there was NO TRIAL and NO JUDGMENT AT ALL. The document deliberately done was designed to deny Petitioner her civil rights and was a complete fabrication and VOID. Chamberlain filed for bankruptcy and proved her damages (losses) of some $42,000.00 compensatory/punitives of $120,000.00 in each of two (2) causes of action (App. 7 (c)). She also filed in the U.S. District Court, as an exhibit to her motion for a stay, a copy of her motion and Order of Court based on her sworn affidavit of her inability to pay or give any security for court costs [T.R.C.P. 145], signed August 21, 2001, Alfred S. Gerson, Judge (App. 7 (c)). Respondent, Court of Appeals, Ninth District, affirmed the trial court's judgment of dismissal on March 28, 2002 (App. 7 (c)). Motion for stay was denied as moot by Ron Clark, United States District Judge, October 21, 2003.

VI. REASONS FOR GRANTING A WRIT

Petitioner, MARGARET CHAMBERLAIN, appearing pro se, seeks to have this Court review by Writ of Certiorari the above court Opinion of June 22, 2004, by declaring that she is entitled to judgment for compensatory/punitive damages by proof based on denial of her civil rights guaranteed under the United States Constitution, because the opinion conflicts with decisions of the United States Supreme Court and with Fed. Rules of Appellate Procedure, and with the United States Court of Appeals, Fifth Circuit Rules (U.S.C.A. Amends. 5, 7, 14). (App. 1; App. 3; App. 4; App. 11).

VII. CONCLUSION

For the reasons stated above, Petitioner respectfully requests that her Petition for Writ of Certiorari be granted.

Dated: January 18th, 2005.

MARGARET CHAMBERLAIN
Petitioner Pro Se
5735 Fleetwood Lane
Beaumont, Tx 77706-2616
Telephone: (409) 347-0637

VERIFICATION

STATE OF TEXAS)
)
COUNTY OF JEFFERSON)

Before me, the undersigned, a Notary Public in Beaumont, Jefferson County, Texas, on this day personally appeared MARGARET CHAMBERLAIN, the Petitioner Pro Se in the above cause, and on her oath stated that she is the Petitioner Pro Se in this cause; that she has knowledge of the facts set forth in the above Petition for A Writ of Certiorari and that the allegations contained in the above petition are true.

A Proof of Service is provided as a separate document (App. 8).

Dated: January 18th, 2005.

Margaret Chamberlain
MARGARET CHAMBERLAIN

Tiffane A Nguyen
Notary Public – State of Texas

09-12-08
My Commission Expires:

[SEAL]

TIFFANE A. NGUYEN
Notary Public, State of Texas
My Commission Expires
SEPT. 12, 2008

App. 1

United States Court of Appeals
Fifth Circuit
FILED
June 22, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 03-41470
Conference Calendar

MARGARET CHAMBERLAIN,

Plaintiff – Appellant,

versus

COURT OF APPEALS, Ninth District, Jefferson County, Texas (Beaumont); ALFRED S. GERSON, Judge at County Court at Law No. 1, Jefferson County, Texas (Beaumont, Texas); GENERAL MOTORS ACCEPTANCE CORPORATION,

Defendants – Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC NO. 1:03-CV-340

Before BARKSDALE, DeMOSS, and CLEMENT, Circuit Judges.

PER CURIAM:*

Margaret Chamberlain appeals the district court's dismissal for lack of subject matter jurisdiction of her 42 U.S.C. § 1983 lawsuit asserting constitutional violations arising out of the way her state-court lawsuit was processed. A district court's dismissal for lack of subject matter jurisdiction is reviewed de novo. See Williams v. Dallas Area Rapid Transit, 242 F. 3d 315, 318 (5th Cir. 2001).

Chamberlain renews her argument that the district court had jurisdiction to review her claims of constitutional deprivations under 28 U.S.C. § 1331, under the Fifth, Seventh, and Fourteenth Amendments, and under 42 U.S.C. § 1983. She also contends that the district court had jurisdiction under FED. R. CIV. P. 60 (b) because the state-court judgment was void. This court will not consider this newly raised argument. See Stewart Glass & Mirror, Inc., v. U.S. Auto Glass Discount Centers, Inc., 200 F. 3d 307, 316-17 (5th Cir. 2000).

Chamberlain's complaint is inextricably intertwined with the merits of her state-court suit, and examination of her claims of constitutional deprivations would require the district court to examine the validity of the state courts' rulings. Accordingly, the complaint was properly dismissed for lack of subject matter jurisdiction. See District of Columbia Court of Appeals v. Feldman, 460 U.S. 462, 476, 482 (1983); Rooker v. Fidelity Trust Co., 263 U.S. 413, 415 (1923); see also United States v. Shepherd, 23 F. 3d 923, 924 (5th Cir. 1994). The district court's judgment is AFFIRMED.

---

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

App. 2

United States Court of Appeals
FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 CAMP STREET
NEW ORLEANS, LA 70130

September 2, 2004

Mr. David Maland, Clerk
Eastern District of Texas, Beaumont
United States District Court
300 Willow Street
US Courthouse
Beaumont, TX 77701

No. 03-41470 Chamberlain v. Court of Appeals
USDC No. 1:03-CV-340

Enclosed, for the District Court only, is a certified copy of the judgment issued as the mandate.

Enclosed, for the District Court only, is a copy of the court's opinion.

Record/original papers/exhibits are returned:
(1) Volume

Sincerely,
CHARLES R. FULBRUGE III, Clerk

By: /s/ Jerome Anderson
Jerome Anderson, Deputy Clerk
504-310-7693

cc: (letter only)
Honorable Ron Clark
Ms Margaret Chamberlain
Mr. Michael T. Donohue
Mr James J McConn Jr
Mr James C Todd

P.S. to Judge Clark: A copy of the opinion was sent to your office via email the day it was filed.

MDT-1

App. 3

U.S. COURT OF APPEALS
FILED
JUL 6 - 2004

CHARLES R. FULBRUGE III
CLERK

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 03-41470

MARGARET CHAMBERLAIN,

Plaintiff – Appellant,

versus

COURT OF APPEALS, Ninth District, Jefferson County, Texas (Beaumont); ALFRED S. GERSON, Judge at County Court at Law No. 1, Jefferson County, Texas (Beaumont, Texas); GENERAL MOTORS ACCEPTANCE CORPORATION,

Defendants – Appellees.

PETITION FOR REHEARING EN BANC

TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES OF THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT, AND TO DEFENDANTS/APPELLEES:

MARGARET CHAMBERLAIN, Plaintiff/Appellant Pro Se presents this Petition for Rehearing En Banc in the above cause, and, in support respectfully shows:

I

1. On June 22, 2004, before Barksdale, DeMoss and Clements, Circuit Judges, by a Calendar Conference, this Court rendered a decision in favor of defendants/appellees and against plaintiff/appellant pro se, MARGARET CHAMBERLAIN, by affirming dismissal of the complaint for lack of subject matter jurisdiction by the district court below, subject to correction (App. 1).

2. Petitioner, MARGARET CHAMBERLAIN, hereby requests a Rehearing En Banc, pursuant to statutory authority and on the grounds shown as follows:

Fed. R. App. Proc., Rule 35: Determination of Causes by the Court En Banc: Rule 35 (a) (1) and (2) When Hearing or Rehearing En Banc Will be Ordered. Rule 35 (b) (1) (A): the panel decision conflicts with a decision of the United States Supreme Court. .; Rule 35 (b) (1) (B): The proceeding involves one or more questions of exceptional importance. Rule 35 (b) (3) ... A party files both a petition for panel rehearing and a petition for rehearing en banc.

3. Fed. R. App. Proc., Rule 35, Rule 35 (a) (1) and (2):

(1) The decision rendered by this Court on June 22, 2004, was rendered by a three (3) Judge Panel of Circuit Judges, which affirmed dismissal of the complaint for lack of subject matter jurisdiction (App. 1). This decision conflicts with the decision of the United States Supreme Court in the following case:

Lynch v. Household Finance Corp., (1972) (U. S. Supreme Court) 92 S. Ct. 1113; 405 U.S. 538; 31 L. Ed. 2d 424. (405 US 541: [1 - 3] The District Court did not reach the merits of the case. It dismissed the complaint WITHOUT AN EVIDENTIARY HEARING on the grounds that it lacked jurisdiction). (Reversed and remanded: Remand: (1973) 360 F. Supp. 720: Judgment/plaintiff, plus costs). 405 US 542: We deny. .that. .§1343 (3) warranted dismissal of the appellant's complaint. Accordingly, we remand the case..".).

In the subject case, there was never any hearing AT ALL held with regard to any merit to her complaint, with attached Exhibits. She was denied any reasonable opportunity to present her case* by the tactics of the named defendants/appellees to deny her civil rights.

(2) The proceeding involves a question of exceptional importance: The panel decision in this case involves an issue as to civil rights which conflicts with the authoritative decision of the local Defendant/Appellee Court of Appeals, Ninth District, Jefferson County, Texas (Beaumont, TX). They upheld Petitioner's civil rights under the United States Constitution. In a recent, published case before the said Court of Appeals at Beaumont, TX, the majority held that:. . '(2) weeks' notice of the first trial setting did not satisfy due process requirements or rule requiring 45 days' notice of a first setting for trial. .'. The relevant holdings state: 8. Constitutional Law: A party's due process rights are violated when he does not receive adequate notice of a hearing or trial setting. (U.S.C.A. Const. Amend. 14). 9. Constitutional Law: Notice of a hearing or trial setting must be meaningful to satisfy constitutional due process requirements. (U.S.C.A. Const. Amend. 14). This decision was in DIRECT CONFLICT with the opinion, not published, with Petitioner's appeal before the said Court of Appeals. On May 16, 2002, the said Court of Appeals, Ninth District,

---

* Fed. R. App. Proc. 34 (a) (2) (C); 5th Cir. 28.2.4; R. 28.3 (b) No oral argument needed.

Beaumont, Texas, affirmed the trial court's judgment of dismissal, in direct denial of Petitioner, MARGARET CHAMBERLAIN's, civil rights. Due process requirements were not met.

In Re North American Refractories Co.
53 S.W. 3d 917 (Tex. App. - Beaumont 2001)

Furthermore, the said Court of Appeals cited the same United States Supreme Court case as the paramount and controlling authority cited by Petitioner, MARGARET CHAMBERLAIN, in her appeal.

Fuentes v. Shevin (1972) (U.S. Supreme Court)
407 U.S. 67
32 L. Ed. 2d 556
92 S. Ct. 1983

It also involves issues in which the panel decision conflicts regarding the Federal Rules of Appellate Procedure required for the Appendix of Appellant in this case and with the Fifth Circuit Rules which require Record Excerpts as well. Petitioner, MARGARET CHAMBERLAIN, filed a Motion with this Court on February 9, 2004, which was granted on February 18, 2004, to detail the opposing differences in the two (2) appellate rule(s), resulting in filing BOTH an Appendix of Appellant and Record Excerpts as required and essential to the presentation of the subject case on appeal before this Court. Petitioner, MARGARET CHAMBERLAIN, has filed numerous records and documents to show and prove the required amount of work completed to accomplish a filing record as proofs. It was and is a complicated process, difficult when the party doing the work is just one (1) person with no other person aiding the process at all. Consideration of the position of the Petitioner in this case is apparent. This case is an "open and shut" case of deprivation of constitutional due process and civil rights, jury trial after notice by the named defendants/appellees. The United States Supreme Court is the controlling authority to support her rights absolute and inviolate

without question. The proofs by Petitioner, MARGARET CHAMBERLAIN, have established a prima facie case, after compliance with all demands by this Court in order to just get into this Court as the forum of "last resort." Petitioner declares and insists that it is now appropriate for a de novo review by the entire court en banc. For the foregoing reasons, it is urged that this Petition for Rehearing En Banc is granted.

Dated: July 1, 2004

Respectfully submitted,
/s/ Margaret Chamberlain
MARGARET CHAMBERLAIN
Appellant Pro Se
5735 Fleetwood Lane
Beaumont, TX 77706-2616

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing PETITION FOR REHEARING EN BANC has been forwarded by first class mail, postage prepaid to each defendant/appellee/agent this date as follows, addressed to their counsel/agent this date:

Court of Appeals,
Ninth District
Jefferson County, Texas
(Beaumont)

James C. Todd
Attorney General's Office
P. O. Box 12548
Capitol Station
Austin, TX 78711-2548

Alfred S. Gerson,
Judge at County Court
at Law No. 1, Jefferson
County, Texas
(Beaumont, Texas)

James J. McConn, Jr.
Hays, McConn, Rice &
Pickering, 1200 Smith St.,
400 Two Allen Center
Houston, TX 77002

General Motors Acceptance Corporation	Registered Agent for Service of Process: c/o C. T. Corporation 350 N. St. Paul St., Dallas, TX 75201
General Motors Acceptance Corporation	Michael T. Donohue Lawrence, Baca & Donohue 5225 Katy Freeway Suite 350 Houston, TX 77007

Dated: July 2, 2004.

/s/ Margaret Chamberlain
MARGARET CHAMBERLAIN
Plaintiff/Appellant Pro Se

App. 4

308 Constitution of the United States

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Amendment VII

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Constitution of the United States 309

Amendment XIV *(Ratified July 9, 1868)*

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

App. 5 (a)

WRITS **28 § 1651**

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction (June 25, 1948).

App. 5 (b)

SUPREME COURT RULES Rule 20

Rule 20. Procedure on a Petition for an Extraordinary Writ

1. Issuance by the court of an extraordinary writ authorized by 28 U.S.C. § 1651 (a) is not a matter of right, but of discretion sparingly exercised. To justify the granting of any such writ, the petition must show that the writ will be in aid of the court's appellate jurisdiction, that exceptional circumstances warrant the exercise of the Court's discretionary powers, and that adequate relief cannot be obtained in any other form or from any other court.

App. 6 (a)

Ch. 121 DECLARATION OF POLICY 28 § 1861

§ 1861. Declaration of policy

It is the policy of the United States that all litigants in Federal courts entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the community in the district or division wherein the court convenes. It is further the policy of the United States that all citizens shall have the opportunity to be considered for service on grand and petit juries in the district courts of the United States (June 25, 1948).

App. 6 (b)

UNITED STATES CODE ANNOTATED
TITLE 42
THE PUBLIC HEALTH AND WELFARE

CHAPTER 21 - CIVIL RIGHTS

SUBCHAPTER I–GENERALLY

Sec.
1983. Civil action for deprivation of rights.

SUBCHAPTER I–GENERALLY

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

(As amended Pub. L. 104-317, Title III, § 309 (c), Oct. 19, 1996, 110 Stat. 3853.)

App. 7 (a)

NO. 78,658

GENERAL MOTORS ACCEPTANCE CORPORATION	IN THE COUNTY COURT AT LAW
VS.	NUMBER ONE (1)
MARGARET CHAMBERLAIN	JEFFERSON COUNTY, TEXAS

ORDER

BE IT REMEMBERED that on this the 13th day of May, 1996 came on for consideration the Defendant's Motion to Quash the Writ of Sequestration and Application for Writ of Sequestration filed herein by Plaintiff, GENERAL MOTORS ACCEPTANCE CORPORATION, and the Court, after hearing evidence and arguments of counsel, is of the opinion that the Motion should be, in all things, GRANTED. It is, therefore,

ORDERED, ADJUDGED and DECREED that Defendant's Motion to Quash Writ of Sequestration is granted, the Writ of Sequestration previously granted herein is withdrawn. Plaintiff, GENERAL MOTORS ACCEPTANCE CORPORATION, is ordered to pay all costs, including all costs of the sheriff or constable in service of the writ, storage of the vehicle through June 3, 1996, and all costs in any way related to the execution of the writ of sequestration as costs of court herein.

~~All relief requested by the Plaintiff is denied~~. MTD

SIGNED and ENTERED this 5th day of June, 1996.

/s/ Alfred S. Gerson
JUDGE PRESIDING

APPROVED AS TO FORM

/s/ Michael T. Donohue,
Attorney for Plaintiff

/s/ BOB K. MONK,
Atty. for Defendant

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office
APR 25 2001
SANDY WALKER,
COUNTY CLERK
JEFFERSON COUNTY, TEXAS
BY /s/ Stacey Fisette DEPUTY

App. 7 (b)

FILED
MAR 28 2002
CAROL ANNE FLORES, CLERK
COURT OF APPEALS
NINTH DISTRICT
Beaumont, Texas

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-01-332 CV

MARGARET ANN CHAMBERLAIN, Appellant
V.
GENERAL MOTORS ACCEPTANCE CORPORATION, Appellee

On Appeal from the County Court at Law No. 1
Jefferson County, Texas
Trial Cause No. 78658

ORDER

We have before the Court "Appellee's Motion to Dismiss the Appeal," filed March 11, 2002. No response was filed. The order dismissing the cause for want of prosecution was signed and entered on December 28, 2000. A notice of restricted appeal was filed on July 24, 2001, more than six months from the date the judgment was signed. Appellant did not file a timely motion for extension of time with this Court. The Court finds appellant failed to timely perfect an appeal. The Court further finds that it lacks jurisdiction over this appeal.

It is, therefore, ORDERED that General Motors Acceptance Corporation's Motion to Dismiss the Appeal is GRANTED. This appeal is DISMISSED for want of jurisdiction.

APPEAL DISMISSED.

ORDER ENTERED March 28, 2002.

PER CURIAM

App. 7 (c)

Form B18 (Official Form 18)
(9/97)

FILED
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF TX
2001 NOV 13 AM 10:39
CLERK, U.S. BANKRUPTCY COURT
BY_____DEPUTY

UNITED STATES BANKRUPTCY COURT
Eastern District of Texas (Beaumont)

In Re:
Margaret A. Chamberlain
PO Box 1684
Beaumont, TX 77704-1684

Debtor

Social Security Number:
Debtor: 564-24-3184

Case Number 01-11527
Chapter: 7

DISCHARGE OF DEBTOR

It appearing that the debtor is entitled to a discharge, **IT IS ORDERED**: The debtor is granted a discharge under section 727 of title 11, United States Code, (the Bankruptcy Code).

Dated: 11/07/01

BY THE COURT

Bill Parker
United States Bankruptcy Judge

SEE THE BACK OF THIS ORDER FOR IMPORTANT INFORMATION.

A True Copy I Certify
James D. Tokoph, Clerk
U.S. Bankruptcy Court
by /s/ S. Britten Deputy
11-15-01

App. 7 (d)

NO. 91,948
NO. 78,658

MARGARET CHAMBERLAIN	IN THE COUNTY COURT AT LAW
VS.	NUMBER ONE (1)
GENERAL MOTORS ACCEPTANCE CORPORATION	JEFFERSON COUNTY, TEXAS

ORDER OF INABILITY TO SECURE COSTS

On this day came on to be considered the motion of MARGARET ANN CHAMBERLAIN, plaintiff, NO. 91, 948, defendant, NO. 79,658, in the above entitled and numbered causes, for an Order of Inability to Secure Costs. The motion having been timely filed, it was duly considered by the court, and the court is of the opinion that the motion is well taken and should be granted.

IT IS, ACCORDINGLY, ORDERED that MARGARET ANN CHAMBERLAIN does not have the ability to secure costs in these two (2) related cases, including costs on appeal.

SIGNED AND ENTERED on this the 22 day of August, 2001.

/s/ Alfred S. Gerson
Judge Presiding

Original Filed with Court of Appeals.

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office
AUG 28 2001
SANDY WALKER, COUNTY CLERK
JEFFERSON COUNTY, TEXAS
BY /s/ Dolly McPhillips DEPUTY
DOLLY MCPHILLIPS

Rule 60. Relief From Judgment or Order

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence, Fraud, Etc. On motion and upon such terms as are just, the court may relieve a party or a party's legal representive from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59 (b); (3) fraud (whether heretofore denominated instrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; ... or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. ... This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a defendant not actually personally notified as provided in Title 28, U.S.C., § 1655, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action. (As amended Dec. 27, 1946.)

App. 10

06/19/2001 11:51 7138640179
LAWRENCE BACA DONOHU PAGE 03/03

NO. 91,948

MARGARET CHAMBERLAIN	IN THE COUNTY COURT AT LAW
VS.	NUMBER ONE (1)
GENERAL MOTORS ACCEPTANCE CORPORATION	JEFFERSON COUNTY, TEXAS

EQUITABLE BILL OF REVIEW
FINAL JUDGMENT

ON JUNE 4, 2001 CAME ON TO be heard Plaintiff, MARGARET ANN CHAMBERLAIN, who announced ready for trial and Defendant, GENERAL MOTORS ACCEPTANCE CORPORATION, who appeared by attorney of record, and the case proceeded to trial.

THE COURT IS OF THE OPINION that Plaintiff, MARGARET ANN CHAMBERLAIN, should take nothing by this suit.

IT IS THEREFORE ORDERED BY THE COURT that Plaintiff, MARGARET ANN CHAMBERLAIN, take nothing by this suit and that Defendant, GENERAL MOTORS ACCEPTANCE CORPORATION, be in all things discharged.

ALL FURTHER RELIEF not expressly granted in this Judgment is denied.

SIGNED THIS 28 day of June, 2001.

/s/ Alfred S. Gerson
JUDGE PRESIDING

I CERTIFY THIS IS A TRUE COPY
Witness my Hand and Seal of Office
FEB 07 2003
SANDY WALKER, COUNTY CLERK
JEFFERSON COUNTY, TEXAS
BY /s/ Christy Simon DEPUTY
Christy Simon

JUN-19-2001 12:06
7138640179

App. 11

Cover Page

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUME

v.w.
TRIAL COURT CAUSE NO. 78658 (original)
TRIAL COURT CAUSE NO. 91948 (Bill of Review)

MARGARET CHAMBERLAIN Plaintiff(s)	IN THE COUNTY COURT AT
VS.	LAW NUMBER ONE
GENERAL MOTORS ACCEPTANCE CORPORATION Defendant(s)	JEFFERSON COUNTY, TEXAS

EQUITABLE BILL OF REVIEW/MOTION TO QUASH

On the 4th day of June, 2001, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Alfred S. Gerson, Judge presiding, held in Beaumont, Jefferson County, Texas:

Proceedings reported by steno type machine.

Page 7

THE COURT: It's not scheduled as a trial today

MR. DONOHUE: Correct.

THE COURT: Okay.

VERONICA (BUNNY) WIMBERLY, CSR